

## DETAILED ACTION

### *Remarks*

1. Applicant failed traverse the Examiner's position of Official notice to claim 9 and thus failed to specifically point out supposed errors in the Examiner's assertion thereby resulting in an inadequate traversal of the Examiner's Official notice. As such, the Examiner takes the assertion of Official notice be admitted prior art due to the inadequate traversal (see MPEP 2144.03). Thus, it is admitted prior art that it is old and well known in the art that a mucolytic agent is utilized to dissolve thick mucus. Thus, from hereon it should be construed as Applicant admitted prior art.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 5, 7, 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vella (US 2002/0091363) in view of Ahnosorge et al. (US 2003/0505344).**

4. Re claims 5, 7, and 11, Vella discloses an apparatus (200, 320); a urine holding vessel (204) suspendable under the belly (fig 1) and a urine collection device (310) attachable to the perineum (fig 2) and communicating with the holding vessel (fig 2); wherein a filter (322) is incorporated into the collection device upstream of the holding vessel.

Vella fails to teach a removable permeable container with adsorbent material incorporated into the holding vessel wherein the adsorbent material is anionic resin.

Ahnorsorge discloses it is known to have a permeable cartridge (para 31, the cartridge has an inlet and outlet thus is permeable to some degree as it allows fluid to pass through) with an adsorbent anion resins (0042).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Vella to incorporate the permeable cartridge with resins in order adsorb estrogen on site to allow for the most efficient transport of the raw material from the collection site as taught by Ahnorsorge (paragraph 0014).

5. Re claim 8, Vella, as modified, shows a funnel shape (fig 5, 6) but fails to teach the mesh filter is polyamide mesh filter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the filter out of polyamide (nylon) for its known durability and strength, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331.

6. Re claim 9, Vella, as modified, fails to teach the filter is dosed with a mucolytic agent to remove mucous and mucosal cells and reduce viscosity. Ahnorsorge discloses it is known to use precoated filters (paragraph 0067). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Vella to use a precoated filter to reduce viscous substances and remove sediment from urine (paragraph 0067) as taught by Ahnorsorge. Vella, as modified fails to teach the precoating on the filter is a mucolytic agent. The Examiner takes

official notice it is old and well known in the art that a mucolytic agent is utilized to dissolve thick mucus and thus reduce viscosity. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a mucolytic agent as the precoating material as it is old and well known to dissolve mucus and, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331.

#### ***Response to Arguments***

Applicant's arguments filed 1/25/2010 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA J. MICHENER whose telephone number is (571)272-1467. The examiner can normally be reached on Monday through Friday 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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